

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

Appeal No. 959 of 2005
In
Summons for Judgment No. 904 of 2004
In
Summary Suit No. 239 of 2000

Santosh Kejriwal	.. Appellant
V/s.	
Albaraka Finance House Ltd.	.. Respondent

Mr. Anand Kumar for the Appellant

Ms. Alpana Ghone i/b. M/s. Dave Girish & Co. for
the Respondent

**CORAM : DR. S. RADHAKRISHNAN &
S.C. DHARMADHIKARI, JJ.
DATED : 27.10.2005.**

P.C.:-

1. Heard the learned counsel for the Appellant and the Respondent. By this Appeal, the Appellant is challenging the order dated 4.10.2005, whereby the learned Single Judge has granted conditional leave of deposit of Rs. 60,00,000/-.

2. The learned counsel for the Appellant sought to contend that the Plaintiff ought to have taken leave before the BIFR before filing a Suit in this Court, however, the learned counsel for the Appellant fairly submits that on the day the Summons for Judgment was taken up, the proceedings before the BIFR had already come to an end. Under these circumstances, the learned Single Judge has declined to accept the same. We also concur with the same.

(2)

3. The learned counsel for the Appellant brought to our notice that the details furnished in the particulars of claims, wherein the Plaintiff has sought to claim loss of profit/interest and other charges @ 18% p.a. from 6.4.1997 to 30.9.1999. There is no admission to the aforesaid liability by the Appellant herein.

4. Under these circumstances, we are not inclined to interfere with the learned Single Judge's order, however we reduce the claim of deposit from Rs. 60,00,000/- to Rs. 40,00,000/-. To that extent, the order stands modified. The said sum of Rs. 40,00,000/- shall be deposited within a period of six weeks from today. Rest of the order of the learned Single Judge stands.

5. Appeal stands disposed of accordingly.

(DR. S. RADHAKRISHNAN, J.)

(S.C. DHARMADHIKARI, J.)